



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5617-N-01]

RIN 2502-ZA13

**Notice of Intent to Conduct Affirmatively Furthering Fair Housing Demonstration
in Baltimore, Maryland, Standard Metropolitan Statistical Area (SMSA)**

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, HUD.

ACTION: Notice of Intent to Conduct Affirmatively Furthering Fair Housing Demonstration in Baltimore, Maryland, SMSA.

SUMMARY: Through this proposed demonstration, HUD seeks to encourage developers and owners of multifamily housing properties in “communities of opportunity” – as defined by Thompson v. HUD – in the Baltimore, Maryland, SMSA to make units in these properties affordable to low-income persons. HUD seeks to determine if, as proposed in this notice, providing developers with financial incentives, to create such housing can help reduce segregation in the Baltimore SMSA.

DATES: Comments Due Date: **[Insert date that is 60 Days after date of publication in the Federal Register]**

ADDRESSES: Interested persons are invited to submit comments regarding HUD's Affirmatively Furthering Fair Housing demonstration, as announced in this notice, to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0001. Communications should refer to the above docket number and title and should contain the information specified in the “Request for Comments” of this notice.

Submission of Hard Copy Comments. To ensure that the information is fully considered by all of the reviewers, each commenter submitting hard copy comments, by mail or hand delivery, should submit comments or requests to the address above. Due to security measures at all federal agencies, submission of comments or requests by mail often result in delayed delivery. To ensure timely receipt of comments, HUD recommends that any comments submitted by mail be submitted at least 2 weeks in advance of the public comment deadline.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All comments submitted to HUD regarding this notice will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the documents must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Copies of all documents submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mary Ann Henderson, Office of Housing, U.S. Department of Housing and Urban Development, City Crescent Building, 10 South Howard

Street, Fifth Floor, Baltimore, Maryland 21201-2505, telephone number 410-209-6545 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION

I. Background

Section 808(e) of the Fair Housing Act (42 U.S.C. 3608(e)) requires HUD to administer its programs relating to housing and urban development in a manner to affirmatively further fair housing (AFFH). HUD carries out this obligation by requiring its program participants to affirmatively further fair housing. AFFH means undertaking affirmative efforts to overcome barriers to fair housing choice and reduce segregation of persons on the basis of race, national origin, and other protected classifications. HUD has funded a number of voucher mobility programs, for example, which pair Housing Choice Vouchers with mobility counseling to facilitate greater housing choice and overcome the effects of historic patterns of segregation. One such regional voucher mobility program was established in the Baltimore SMSA in 1996.

Multifamily housing assisted by or with financing insured by HUD is subject to the Fair Housing Act's AFFH requirement. Through this proposed demonstration, HUD seeks to encourage investment in multifamily housing and promote the availability of affordable housing units in a manner that reduces racial segregation and increases geographic and economic mobility in the Baltimore SMSA. For its multifamily housing programs that insure financing for multifamily housing development, HUD will offer incentives to make more affordable housing available in mixed-income, integrated communities. In addition, HUD will require that this new affordable housing is made available to Housing Choice Voucher holders, expanding housing options for these families.

II. Proposed Demonstration

HUD proposes to make available incentives for Federal Housing Administration (FHA) insured financing to developers in order to encourage the production and availability of more affordable housing units in areas identified as communities of opportunity in the Baltimore SMSA. Eligible areas are those in which the regional mobility program, established under the Thompson v. HUD settlement, operates, and which are identified as “communities of opportunities” in the Thompson v. HUD settlement. HUD believes that the proposed incentives will contribute to reducing racial segregation and increasing opportunities for low-income families to live in areas identified as communities of opportunity throughout the Baltimore SMSA.

This demonstration would be open to multifamily owners and developers pursuing FHA mortgage insurance under the section 221(d)(4) program or other FHA multifamily finance programs for properties to be developed in eligible areas in the Baltimore SMSA. For such owners and developers who agree to set aside a percentage of newly constructed or rehabilitated two- or three-bedroom units for nonelderly families holding Housing Choice Vouchers, either under a project-based voucher contract or offered at rents less than or equal to the Fair Market Rent (FMR) for the Baltimore SMSA, and in order to encourage the construction of more affordable housing for these voucher holders, HUD proposes to offer one or a combination of the following incentives:

- Lowering the mortgage insurance premium (MIP);
- Lowering the occupancy/vacancy rate when establishing the project’s anticipated budget; or

- Establishing a procedure that results in greater or more frequent surplus cash distributions for projects containing a specified number of affordable units.

The incentives offered would be subject to any constraints of current and future program and budget authorities and would be commensurate with the number of affordable units set aside in the property, which in no case would be less than 10 percent of the newly constructed or rehabilitated units in that property. HUD will provide, in the notice soliciting applications, which incentives will be available based on the percentage of affordable units that are set aside.

Owners, developers, and lenders seeking to participate in the demonstration described in this notice must¹:

- Certify that they meet all other requirements for FHA-insured financing, comply with the terms of the demonstration, and comply with HUD's nondiscrimination and equal opportunity requirements;
- Submit an affirmative fair housing marketing plan satisfactory to HUD for both the market-rate units and the units that will be affordable to Housing Choice Voucher holders in Baltimore City and throughout the Baltimore SMSA (a satisfactory affirmative fair housing marketing plan must include marketing of affordable units to Housing Choice Voucher holders in Baltimore City through the Thompson regional mobility program);
- Agree to not establish local residency preferences for properties that receive incentives pursuant to this demonstration; and
- Maintain statistics on the race and ethnicity of applicants and occupants for both the affordable and market rate units

¹ Published elsewhere in today's Federal Register is HUD's 60-day notice soliciting comment on the burden hours of the proposed information collection requirements as set forth in this section.

HUD has estimated that a total of 1,200 to 1,500 units in multifamily housing properties may be made available per year in the Baltimore SMSA. If 10 percent of those units were set aside as affordable and available for vouchers holders under HUD's Housing Choice Voucher program, the demonstration would yield approximately 120 to 150 affordable units per year. HUD will offer the above incentives for not more than 300 affordable units per year, and will carefully monitor the demonstration to determine whether it is succeeding in increasing available affordable housing units in Thompson v. HUD settlement communities of opportunity in the Baltimore SMSA. If, in any year during this demonstration fewer than 300 affordable units are created through the demonstration, the unused allocation of units would roll over and be available in subsequent years, not to exceed 500 units created through these incentives in any given year. To enable it to evaluate the success of the demonstration, HUD proposes to operate the program for a minimum of 7 years, as long as continued operation of the demonstration is consistent with prudent fiscal management of the FHA insurance fund. If the demonstration indicates that it is succeeding in increasing the number of affordable housing units in areas identified as communities of opportunity in the Baltimore SMSA, HUD will consider if the demonstration should be expanded to other SMSAs.

III. Evaluating the Demonstration

One of the principal purposes of the demonstration is to determine whether the incentives that HUD is proposing to provide developers and owners of multifamily housing properties results in the availability of more affordable housing to low-income persons in a manner that reduces racial segregation and increases geographic and economic mobility. HUD will, therefore, undertake an evaluation of the demonstration to determine whether the demonstration

could serve as a model that could be successful nationwide or, alternatively, whether modifications to the demonstration are needed.

IV. Solicitation of Public Comment

In accordance with section 470 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), HUD is seeking comment on the demonstration for a period of 60 days, before commencing the demonstration. After the close of the public comment period, and following full consideration of comments submitted, HUD will publish another notice that will advise of the commencement of the demonstration, the specific incentives that HUD would offer multifamily housing owners and developers for properties to be developed in communities of opportunity in the Baltimore SMSA, as identified for the Thompson regional mobility program, and other features or requirements of the demonstration that HUD may prescribe.

During the comment period, HUD invites comment on all aspects of the demonstration, but specifically solicits comment on the incentives, and the criteria for receiving them, that are proposed to be offered to multifamily owners and developers under the demonstration, and seeks suggestions on specific parameters for these incentives and additional incentives that may be helpful to HUD in achieving the goals of the demonstration.

Dated: August 28, 2012

Carol J. Galante
Acting Assistant Secretary for Housing—
Federal Housing Commissioner

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